had already developed. There is no reason to believe that petitioner's status was altered as a result of his wife's plea of guilty to another offense carrying a lesser punishment. Nor is there any reason to assume that the court considered Mrs. Sadrzadeh's guilty plea in determining that petitioner was guilty of the offense charged, particularly in view of the court's findings in this regard (R. 247–248).

There is nothing to petitioner's contention (Pet. 18–19) that his wife's guilty plea restricted his right of cross-examination. Petitioner's counsel had the opportunity to examine Mrs. Sadrzadeh throughout the trial. After petitioner's request to withdraw his jury waiver was denied, both sides rested and petitioner's counsel made no attempt to examine Mrs. Sadrzadeh further (R. 240).

3. Petitioner argues that the trial court's refusal to admit the results of a lie detector test constituted a denial of due process. Because, in criminal cases, the results of such tests would go to the ultimate question of guilt or innocence and would be likely to carry great weight in the courtroom, high standards with respect to equipment, methodology, analysis and qualifications of examiners are required. In the absence of a stipulation by both parties, the courts have almost all refused to admit the results of such tests because the tests have not as yet been shown to reflect a sufficient degree of accuracy. *United States* v. *Rodgers*, 419 F. 2d 1315 (C.A. 10); *United States* v. *Tremont*, 351 F. 2d 144 (C.A. 6); *McCroskey* v. *United States*, 339 F. 2d 895 (C.A. 8); *United States ex rel.*

Sadowy v. *Fay*, 189 F. Supp. 150, affirmed, 284 F. 2d 426 (C.A. 2), certiorari denied, 365 U.S. 850; *Marks* v. *United States*, 260 F. 2d 377 (C.A. 10), certiorari denied, 358 U.S. 929. There is no reason for the Court to review this established evidentiary rule. Petitioner presents no evidence that either "reason and experience" or the consensus of scientific opinion warrant a change, by judicial ruling, of the existing law that evidence of lie detector tests is inadmissible whether offered by the defense or prosecution. Cf. *Hawkins* v. *United States*, 358 U.S. 74.

4. Petitioner argues that he was so unduly prejudiced by the prosecution's offer of proof with respect to certain letters addressed to petitioner's wife and postmarked Afghanistan that the court committed reversible error in denying his motion for a mistrial. The letters were offered for the purpose of impeaching Mrs. Sadrzadeh's testimony that neither she nor her husband were expecting to receive hashish in the parcel. The offer of proof was that the letters concerned narcotics transactions. The court, without examining the contents of the letters, held them to be inadmissible (R. 199–204). Since the court did not examine the letters, the prejudicial effect, if any, was minimal. In any event, a judge, unlike a jury, is presumed to have exercised appropriate discretion in distinguishing between proper and improper evidence introduced at trial and, in the absence of a clear showing to the contrary, to have based his decision only on the former. *United States* v. *Stanley*,

411 F. 2d 514 (C.A. 7), certiorari denied, 396 U.S. 959; *Alexander* v. *United States*, 241 F. 2d 351 (C.A. 8), certiorari denied, 354 U.S. 940; *United States* v. *Fairbanks*, 89 F. 2d 949 (C.A. 9). Since petitioner makes no contrary showing and the record reflects none, it must be assumed that the judge was not affected by this offer of proof in rendering his verdict. Thus, the motion for a mistrial was properly denied.

5. Petitioner's final contention—that hashish is not contraband within the purview of 21 U.S.C. 176(a)—is without merit. It has been held that hashish or "refined marijuana" is marijuana within the meaning of 21 U.S.C. 176(a). *United States* v. *Cepelis*, 426 F. 2d 134, 136 (C.A. 9); *United States* v. *Piercefield*, 437 F. 2d 1188 (C.A. 5).

CONCLUSION

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

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